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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/675,843
Filing Date: September 30, 2003
Appellant(s): KARAOGUZ ET AL.

Jeyhan Karaoguz, et al.
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed May 20, 2009 appealing from the Office action mailed October 24, 2008 ("Final Office Action").

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

2002/0124258	Fritsch	9-2002
2004/0024886	Saxena	2-2004

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

1. Claims 1-5, 7-16, 18-27, and 29-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fritsch (U.S. Pat. App. Pub. 2002/0124258) in view of Saxena (U.S Pat. App. Pub. 2004/0024886).

2. Regarding claim 1, Fritsch disclosed a method and system comprising automatically transferring one or more of media, data and/or service to a view of one or both of a first media processing system and/or a first personal computer within the distributed media network, wherein said automatic transfer is controlled by utilizing at least a first rule hosted by said one or both of said first media processing system and/or said first personal computer (“media delivery center receives media-rich broadcasts”, see paragraph [0028], [0031], [0033]); and automatically routing said automatically

transferred one or more of media, data and/or service from said view of said one or both of said first media processing system and/or said first personal computer to a view of one or both of a second media processing system and/or a second personal computer ("media programs are delivered to output devices by a media delivery system", see paragraph [0028], [0031], [0033]), wherein said first and second views comprise one or more of: a device view, a media view, and a channel view ("a particular channel", see paragraph [0033]).

3. Fritsch disclosed substantially the invention as claimed for the given reasons above however explicitly does not disclose wherein said automatic transfer is controlled by utilizing at least a first rule hosted by said one or both of said first media processing system and/or said first personal computer. However in the same field of invention Saxena discloses wherein said automatic transfer is controlled by utilizing at least a first rule hosted by said one or both of said first media processing system and/or said first personal computer (see abstract, par. [0006, 0033, figure 1 and the details related to figure in specifications; controlling content exchange mechanism etc.]).

4. It would have been obvious to one of the ordinary skill person in the art of networking to combine the teaching of Fritsch and Saxena for a media communication method and system. Motivation for doing so would have been authorization accessing and controlling shared content exchange (see Saxena: par. [0001]).

5. Regarding claims 2, Fritsch disclosed the method and system comprising consuming said routed one or more of said media, data and/or service by said one or

both of said second media processing system and/or said second personal computer (see paragraph [0039]).

6. Regarding claims 3, Fritsch disclosed the method and system comprising controlling said consumption by said one or both of said second media processing system and/or said second personal computer by utilizing at least a second rule (see paragraph [0046]).

7. Regarding claims 4, Fritsch disclosed the method and system comprising scheduling said consumption of said one or more of said media, data and/or service by said one or both of said second media processing system and/or said second personal computer utilizing said at least a second rule (see paragraph [0046]).

8. Regarding claims 5, Fritsch disclosed the method and system wherein said at least a second rule is a consumption rule (see paragraph [0046]).

9. Regarding claims 7, Fritsch disclosed the method and system comprising pre-defining said at least a first rule (see paragraph [0033], [0037]).

10. Regarding claims 8, Fritsch disclosed the method and system wherein said at least a first rule is a transfer rule (see paragraph [0033], [0037]).

11. Regarding claims 9, Fritsch disclosed the method and system comprising controlling said automatic routing utilizing at least a third rule (see paragraph [0033], [0037]).

12. Regarding claims 10, Fritsch disclosed the method and system comprising predefining said at least a third rule (see paragraph [0033], [0037]).

13. Regarding claims 11, Fritsch disclosed the method and system wherein said at least a third rule is a routing rule (see paragraph [0033], [0037]).

14. Claims 12-16, 18-27, and 29-34 substantially claim the same invention as claims 1-5 and 7-11. Accordingly, these claims are rejected under the same rationale detailed above.

(10) Response to Argument

Appellant argues Independent claims 1, 12, and 23

15. On pages 6-13 of Appellant's Appeal Brief, Appellant argues Independent claims 1, 12 and 13. Appellant asserts that Fritsch individual or in combination with Saxena does not discloses, "wherein said automatic transfer is controlled by utilizing at least a first rule hosted by said one or both of said first media processing system and/or said first personal computer" as claimed. This argument is not deemed persuasive.

16. In response to Appellant argues that Fritsch does not describe how media content is transferred to the media center 300 and how the transfer is controlled" or "that the transfer of the content 302 is controlled in any way by a rule". Examiner notes that the claimed "first rule" is broadly recited, and is not limited by the claim language regarding any specific mechanics. At best, the claimed "first rule" as recited in claim 1 has the functionality of "controlling" the transfer of data to the first media processing system/computer. As acknowledged by Applicant, the media delivery center of Fritsch receives data (i.e., "transferring...media...to...a first media processing system", claims 1, 12 and 23). Examiner submits that any number of provisions associated with the transfer of data between the media deliver center and content source of Fritsch reads

on the broad concept of controlling such transfer using a "first rule". For example, the protocol used to transfer data ("media delivery center 202 can receive local TV broadcasts 204 and satellite broadcasts", paragraph [0031]), the format of the data ("video, audio or graphic forms", paragraph [0031]), subscription rules ("end users subscribe to the media delivery system for various programs", paragraph [0031]), or security rules ("media program content 302 is encrypted", paragraph [0033]) can all be considered "rules" as they are clearly aspects that control the transfer of media content to the media delivery center. The breadth of the claim language allows for such a reasonable interpretation. While it may be argued that the reference does not specifically refer to such considerations as "rules", to consider the provisions governing data transfer noted above as rules would have been reasonably drawn from the disclosure of Fritsch. "[I]n considering the disclosure of a reference, it is proper to take into account not only specific teachings of the reference but also the inferences which one skilled in the art would reasonably be expected to draw therefrom." In re Preda, 401 F.2d 825, 826, 159 USPQ 342, 344 (CCPA 1968). See MPEP 2144.01.

17. Likewise, Saxena further clarify, "automatic transfer is controlled by utilizing at least a first rule hosted by said one or both of said first media processing system and/or said first personal computer (see abstract, par. [0006, 0033, figure 1 and the details related to figure in specifications; controlling content exchange mechanism and details])". Accordingly, Examiner submits that Fritsch in view of Saxena teach or suggest the claimed limitation argued. Therefore, 35 U.S.C § 103(a) rejection is proper.

Appellant argues dependent claims 2, 13, and 24

18. On page 14 of Appellant's Appeal Brief, Appellant's arguments toward these claims are substantially the same as those directed toward claims 1, 12, and 23, which examiner has responded above. Appellant does not provide any other arguments that distinguish over the references of Fritsch and Saxena, therefore the present rejection should be affirmed.

Appellant argues dependent claims 3, 14, and 25

19. On pages 14-15 of Appellant's Appeal Brief, Appellant's arguments toward these claims are substantially the same as those directed toward claims 1, 12, and 23, which examiner has responded above. Appellant does not provide any other arguments that distinguish over the references of Fritsch and Saxena, therefore the present rejection should be affirmed.

Appellant argues dependent claims 4, 15, and 26

20. On pages 15-16 of Appellant's Appeal Brief, Appellant's arguments toward these claims are substantially the same as those directed toward claims 1, 12, and 23, which examiner has responded above. Appellant does not provide any other arguments that distinguish over the references of Fritsch and Saxena, therefore the present rejection should be affirmed.

Appellant argues dependent claims 5, 7-11, 16, 18-22, 27, and 29-34

21. On pages 17-24 of Appellant's Appeal Brief, Appellant's arguments toward these claims are substantially the same as those directed toward claims 1, 12, and 23, which examiner has responded above. Appellant does not provide any other arguments that

distinguish over the references of Fritsch and Saxena, therefore the present rejection should be affirmed.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/U. C./

/Umar Cheema/

Examiner, Art Unit 2444

/William C. Vaughn, Jr./

Supervisory Patent Examiner, Art Unit 2444

Conferees:

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Supervisory Patent Examiner, Art Unit 2444

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Supervisory Patent Examiner, Art Unit 2451